

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

WEST CONTRA COSTA UNIFIED  
SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2013110786

ORDER FOR SUPPLEMENTAL  
BRIEFING ON REQUEST TO  
WITHDRAW COMPLAINT AND  
DISMISS WITHOUT PREJUDICE

On April 10, 2014, West Contra Costa Unified School District (Contra Costa), filed a request to withdraw their complaint and dismiss the matter without prejudice. To date, no opposition has been received from Student, who is represented by Mother. Additional information is required before a ruling may be made on the pleadings.

DISCUSSION

This Contra Costa filed matter requests findings that it may complete a triennial assessment over parental objection and that the individualized education program (IEP) of October 30, 2013, be determined to provide a free appropriate public education and be implemented over parental objection.

The hearing in this matter commenced on February 4, 2014. At the end of the first day of hearing, which included opening statements and the testimony of several witnesses, the matter was continued. The matter was continued again on February 24, 2014, and is scheduled to recommence on April 22, 2014.

Contra Costa indicates, in the motion to dismiss the case, that Mother has agreed to the triennial assessment, which is almost completed, and that another IEP team meeting is scheduled for April 21, 2014, at which time another IEP will be developed for Student.

Contra Costa has asked that the matter be dismissed without prejudice. However, Contra Costa did not address the legal issues surrounding the request to dismiss a case with prejudice where a hearing has started and witnesses have already been called.

## ORDER

Within three business days of this order, each party shall provide briefing regarding whether this matter should be dismissed with or without prejudice, including the effect of the completion of the triennial assessment and subsequent IEP team meeting. Each party shall include sworn declarations supporting any factual assertions included in its briefing. Should Contra Costa determine that the dismissal should be with prejudice, Contra Costa may submit a new request to dismiss the case with prejudice and no additional briefing will be necessary by either party.

IT IS SO ORDERED.

DATE: April 16, 2014

/s/

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MARGARET BROUSSARD  
Administrative Law Judge  
Office of Administrative Hearings